

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2254

2015 Carryover

(BY DELEGATE RODIGHIERO)

[Introduced January 13, 2016; referred to the
Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §31-20-31 of the Code of West Virginia, 1931, as amended, relating
 2 to allowing the Executive Director of the West Virginia Regional Jail and Correctional
 3 Facility Authority to establish a work program only for qualified inmates sentenced to a
 4 regional jail facility and not awaiting transfer to a state correctional facility; and specifying
 5 minimum requirements for the program.

Be it enacted by the Legislature of West Virginia:

1 That §31-20-31 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

**ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY
 AUTHORITY.**

§31-20-31. Work program.

1 (a) The Executive Director of the West Virginia Regional Jail and Correctional Facility
 2 Authority may propose rules for legislative approval in accordance with the provisions of article
 3 three, chapter twenty-nine-a of this code to establish ~~at each regional jail facility~~ a work program
 4 for qualified inmates sentenced to a regional jail facility and not awaiting transfer to a state
 5 correctional facility, and to establish at each regional jail facility under his or her jurisdiction an
 6 inmate trustee account. The authority shall establish guidelines and qualifications to allow
 7 ~~inmates sentenced to a regional jail facility~~ a qualified inmate to be gainfully employed with local
 8 businesses and governmental entities, ~~as part of a job program:~~ including county commissions
 9 or other qualified city or county government agencies, with the consent of the inmate. ~~—Provided,~~
 10 ~~That with regard to an inmate sentenced to the Division of Corrections that is domiciled at a~~
 11 ~~regional jail facility under the supervision of the authority, the Commissioner of the Division of~~
 12 ~~Corrections or designee shall first determine the eligibility of such inmate for participation in the~~
 13 ~~work program authorized by this section and consent to such inmate's participation therein~~ A

14 qualified inmate does not include an inmate convicted of a sexual offense or a violent felony, or
15 otherwise known to be a danger to the general public.

16 Inmates participating in a work release program pursuant to this section may be granted
17 up to sixty days of good time and may be released from incarceration up to sixty days immediately
18 prior to the scheduled completion of their respective sentence or period of incarceration.

19 (b) The administrator or designee of each regional jail facility shall receive and take charge
20 of the money of all inmates in his or her regional jail and all money sent to the inmates or earned
21 by the inmates as compensation for work performed under this section. The administrator or
22 designee shall credit the money and earnings to the inmate entitled to it and shall keep an
23 accurate account of all the money so received, which account is subject to examination by the
24 executive director or designee. The administrator or designee shall deposit the moneys in one
25 or more responsible banks in accounts to be designated inmate trustee account.

26 (c) For each inmate sentenced to the Division of Corrections participating in a work
27 program authorized by this section, the administrator or designee of the regional jail facility shall
28 keep in an account at least ten percent of all money earned during the inmate's incarceration and
29 pay the money to the inmate at the time of the inmate's release. The administrator may authorize
30 the inmate to withdraw money from his or her mandatory savings for the purpose of preparing the
31 inmate for reentry into society.

32 (d) An inmate who works in work programs established under this section shall make
33 reimbursement to the authority toward the cost of his or her incarceration to be credited to the
34 agency billed for that incarceration. ~~Provided, That~~ Prior to directing a qualified inmate to make
35 reimbursement under this section, the executive director or designee shall consider the following:

- 36 (1) The inmate's ability to pay;
- 37 (2) The nature and extent of the inmate's responsibilities to his or her dependents, if any;

38 (3) The length of probable incarceration under the court's sentence; and

39 (4) The effect, if any, that reimbursement might have on the inmate's rehabilitation.

40 (e)(1) The administrator shall deduct from the earnings of each qualified inmate legitimate
41 court-ordered financial obligations including, but not limited to, child support payments, liens and
42 any other court-ordered financial obligation. The executive director shall develop a policy that
43 outlines the formula for the distribution of the qualified inmate's income and the formula shall
44 include a percentage deduction, not to exceed forty percent in the aggregate, for any court
45 ordered victim restitution, court fees and child support obligations owed under a support order,
46 including an administrative fee not to exceed one dollar, consistent with the provisions of
47 subsection (c), section four, article fourteen, chapter forty-eight, to support the authority's
48 administration of this financial service.

49 (2) In the event that the qualified inmate's income is subject to garnishment for child
50 support enforcement deductions, it shall be calculated on the net wages after taxes, legal financial
51 obligations and garnishment. ~~Provided, That~~ However, nothing in this section limits the authority
52 of the Bureau for Child Support Enforcement of the Department of Health and Human Resources
53 from taking collection action against an inmate's moneys, assets or property.

54 (f) The administrator or designee of a regional jail facility, upon request of an inmate to
55 release funds, on behalf of the family of the inmate, may authorize the release of funds up to one
56 half of the money earned by the inmate participating in a work program as authorized by this
57 section ~~Provided, That~~ if the court-ordered financial obligations provided in subsection (e) of this
58 section and other fees owed by the inmate including, but not limited to, the costs of incarceration
59 and any restitution for facility rule infractions, have been paid. The remainder of the money
60 earned, after deducting amounts expended as authorized, shall be accumulated to the credit of
61 the inmate and be paid to the inmate at times as may be prescribed by rules. The funds so

62 accumulated on behalf of inmates shall be held by the administrator or designee of each institution
63 under a bond approved by the Attorney General.

64 (g) The administrator or designee shall deliver to the inmate at the time he or she leaves
65 the regional jail facility, or as soon as practicable after departure, moneys and earnings then
66 credited to the inmate. ~~Provided, That~~ However, if an inmate is transferred to the physical
67 custody of the Commissioner of the Division of Corrections, as defined in section two of this article,
68 at the time he or she leaves the regional jail facility, the administrator or designee shall deliver
69 moneys and earnings then credited to the inmate to the Commissioner of the Division of
70 Corrections for administration in accordance with the provisions of section three-a, article one,
71 chapter twenty-five. In case of the death of the inmate before authorized release from the
72 regional jail facility, the administrator or designee shall deliver the property to the inmate's lawful
73 representative. In case a conservator is appointed for the inmate while he or she is domiciled at
74 the regional jail facility, the administrator shall deliver to the conservator, upon proper demand,
75 all moneys and personal property belonging to the inmate ~~that are~~ in the custody of the
76 administrator.

77 (h) The executive director shall propose rules for legislative approval in accordance with
78 article three, chapter twenty-nine-a of this code to administer and establish the work programs
79 authorized by this section.

80 (i) Notwithstanding any provision of this code to the contrary, the county commission, its
81 members and agents, the Executive Director of the West Virginia Regional Jail and Correctional
82 Facility Authority or designee its members or agents, the sheriff, his or her deputies, correctional
83 officers and agents shall be immune from all liability of any kind except for accident, injury or
84 death resulting directly from gross negligence or malfeasance.

NOTE: The purpose of this bill is to allow the Executive Director of the West Virginia Regional Jail and Correctional Facility Authority to establish a work program for qualified inmates sentenced to a regional jail facility. It includes provisions specifying minimum requirements for the program.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.